

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-3, 8, and 17-21 are requested to be cancelled. Claims 4, 5, 9, 11, and 16 are currently being amended. New claims 22-28 are being added. Of the new claims, claims 22, 23, 25, 26, and 28 read on the elected species. Claims 4, 10, 15 and 21 stand withdrawn. Therefore, claims 4-7, 9-16, and 22-28 are pending, with claims 5-7, 9, 11-14, 16, 22, 23, 25, 26, and 28 being submitted for further consideration on their merits.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claim 5 has been amended by rewriting it in independent form to include the limitations of claim 1, along with a part of the limitations of original claim 5. New claims 22-23 depend from claim 5 and recite limitations analogous to canceled claims 2-3, respectively. New claim 24 depends from claim 5 and recites a limitation analogous to claim 4. New claim 25 depends from claim 5. New claim 26 depends from claim 25 and recites a limitation analogous to canceled claim 8. New claim 27 depends from claim 24 and recites a limitation analogous to claim 10.

Applicants further note that claim 5 is generic to all the species (and claim 11 was already indicated as such previously). Therefore, should claims 5 and 11 be allowed, the remaining dependent claims that are otherwise directed to withdrawn subject matter should be allowed as well.

The Examiner is kindly requested to consider the Information Disclosure Statement filed on November 18, 2003 and return the initialed PTO SB/08 form in accordance with MPEP § 609. In addition, the Examiner's remarks on page 2 do not appear to warrant special remarks. Applicants strive to provide the Patent Office with the information required by the duty of disclosure requirements.

In the Office Action, claims 1-3, 5-9, 11-14, and 16-20 were rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Onda (JP 9-309319). Claim 5, as amended, recites that a heating, ventilation and air conditioning system for use in an automobile comprises, *inter alia*, an ascending air passage communicated with the descending air passage and the vent outlet to permit the air passing through the descending air passage to flow upwardly therethrough into the vent outlet, a heating heat-exchanger disposed within the ascending air passage and adapted to heat the air passing therethrough to produce warm air, a cooling heat-exchanger being disposed between the blower chamber and the heating heat-exchanger, a foot vent passage communicated with the ascending air passage, the foot vent passage being arranged above the heating heat-exchanger and between the blower chamber and the ascending air passage, and a partition wall cooperating with the rear wall of the casing to define the ascending air passage, the partition wall separating the foot vent passage and the ascending air passage from each other.

Through the use of the recited arrangement of a foot vent passage and an ascending air passage separated by a partition wall, the size of the ascending air passage in the fore and aft direction of the automobile can be reduced. This provides for a more compact casing. Further, in such an arrangement, it is possible to linearly align the vent outlet and the bypass air passage via the ascending air passage. Therefore, an HVAC system of claim 5 has a compact casing, an increase in air amount and a suppression of the noise in the full cool state in the vent mode. See specification, page 15, lines 16-21. The recited structure is not met by any of the prior art cited in the Office Action.

As shown in Onda, a door 6 channels air from a cold air passage 5 either to a heater 3 and a hot air passage 8 or through a passage that bypasses the heater 3. The hot air passage 8 is defined by the heater 3 and a generally horizontal wall. The same wall defining the hot air passage 8 defines a foot vent passage 13. The foot vent passage 13 has an outlet to a vent 10 through doors 12 and 9. The passage to the vent 10 is defined by the door 9 and the rear wall of the casing.

In contrast to claim 5, Onda fails to disclose or suggest a partition wall cooperating with the rear wall of the casing to define the ascending air passage, the partition wall

separating the foot vent passage and the ascending air passage from each other. Rather, as shown in Onda, the apparent “wall” in Onda separates the foot vent passage 13 from the hot air passage 8, not the ascending air passage. Further, Onda shows that the ascending air passage (passage to vent 10) is defined by the rear wall of the casing and the door 9, not a wall of the foot vent passage 13. Accordingly, claim 5 is patentably distinguishable from Onda. In addition, claims 6-7, 9, 22, 23, 25, 26, and 28 are also patentably distinguishable from Onda by virtue of their dependence from claim 5, as well as their additional recitations. Moreover, claim 11 recites an analogous limitation as claim 5 (including a partition wall separating the foot vent passage and a second air passage), and is therefore allowable for the same reason. Claims 12-14 and 16 depend from claim 11, and are patentable as well for at least the noted reasons for claim 11.

Claims 1-3, 5-9, 11-14, and 16-20 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of Onda and Taihichi (JP 10-58939). Taihichi does not meet the missing elements of Onda, including giving no specifics as to a foot vent passage. Accordingly, even if combinable, Taihichi fails to cure the deficiencies of Onda. Thus, claim 5, as well as the claims depending therefrom, are patentably distinguishable from the combination of Onda and Taihichi.

Finally, claims 1-3, 5-9, 11-14, and 16-20 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of Taihichi and Araki (JP 8-282245). As discussed above, Taihichi fails to disclose the foot vent passage and a partition wall cooperating with the rear wall of the casing to define the ascending air passage, the partition wall separating the foot vent passage and the ascending air passage from each other. This demonstrates that, contrary to the Examiner’s assertions, there is no “striking resemblance” to what is disclosed in the application.

Araki shows a similar structure to the structure of Onda, including a door forcing cold air either through a heater core 6 or through a bypass passage 7. Cool air through the bypass passage 7 mixes with air heated by the heater core 6 downstream of the heater core 6 to rise through a rising passage 3c. A passage to a blow port 9 is defined by a wall separating the passage from the blower area and a wall separating the passage from a cool air passage 3a.

The rising passage 3c is defined by a rear wall and a section of the wall defining the blower area (different from the portion defining the passage to the blow port 9). The blow port passage is not between the blower chamber and the ascending air passage.

Like Onda and Taihichi, Araki fails to disclose or suggest a partition wall cooperating with the rear wall of the casing to define the ascending air passage, the partition wall separating the recited foot vent passage (between the blower chamber and the ascending air passage) and the ascending air passage from each other. Accordingly, even if combinable, claim 5 (as well as claim 11 for analogous reasons) is patentably distinguishable from the combination of Taihichi and Araki. Moreover, Applicants do not believe that proper motivation exists for the wholesale reconstruction and combination of Taihichi and Araki in the manner done in the Office Action. The issue of compactness, even if it were to hold to indicate some change, does not support the wholesale changes indicated in the Office Action. The dependent claims are patentable based at least on their dependency from either claim 5 or claim 11.

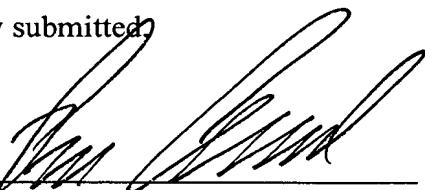
Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

By _____


Pavan K. Agarwal
Attorney for Applicant
Registration No. 40,888

Date June 2, 2004

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 945-6162
Facsimile: (202) 672-5399